

SENATE BILL 1875

By Herron

AN ACT to enact the "Distracted Driving Act of 2005".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Distracted Driving Act of 2005".

SECTION 2. This act defines and prohibits driving distractions and creates restrictions on the use of hand-held and hands-free wireless telephones while driving.

SECTION 3: As used in this chapter, unless the context otherwise requires:

(1) "Hands-free accessory" means an attachment, add-on, built-in feature, or addition to a wireless telephone, whether or not permanently installed in a motor vehicle, which when used allows the vehicle operator to maintain both hands on the steering wheel.

(2) "Motor vehicle" means all self-propelled vehicles, excluding motorized bicycles and those vehicles propelled by electric power from overhead trolley wires, but not operated upon rails.

(3) "Use" of a wireless telephone means talking, placing, or receiving a call, or attempting to place or receive a call on a wireless telephone.

(4) "Wireless telephone" means a telephone capable of sending or receiving telephone messages without an access line for service.

SECTION 4.

(a) A person commits the offense of distracted driving who engages in the act of inattentive driving while operating a motor vehicle,

(1) which results in the unsafe operation of the vehicle, and

(2) when the unsafe operation of the vehicle is caused by reading, writing, performing personal grooming, interacting with pets or unsecured cargo, using a computer, using personal communications technologies, or engaging in any other activity which causes distractions.

(b) Distracted driving is a Class B misdemeanor.

SECTION 5.

(a) A person commits aggravated distracted driving occurs if:

(1) The person engages in the act of distracted driving as defined in section 4(a) of this act;

(2) The distracted driving contributes to an automobile accident, and

(3) The automobile accident results in serious bodily injury, as defined by §39-11-106(34), to another individual.

(b) In addition to any other penalties arising from the accident, aggravated distracted driving is a Class A misdemeanor. A person convicted of the offense of aggravated distracted driving shall also be deemed negligent per se.

SECTION 6.

(a) It is an offense to use a wireless telephone while operating a motor vehicle in the state of Tennessee unless the telephone is equipped with a hands-free accessory.

(b) The provisions of this section shall not apply to the following:

(1) Emergency use of a wireless telephone, including calls to 911, a hospital, an ambulance service provider, a fire department, a law enforcement agency, or a first-aid squad;

(2) Use of a wireless telephone by law enforcement or emergency personnel or by a driver of an authorized emergency vehicle, acting within the scope of official duties; or

(3) Initiating or terminating a telephone call, or turning the wireless telephone on or off.

(c) A violation of this section is a Class C misdemeanor.

SECTION 7.

(a) It is an offense to use a wireless telephone, including those with hands-free accessories, while operating a moving school bus, as defined by §55-8-101(53). This restriction shall not apply to wireless telephone or two-way radio communications made to and from a central dispatch, school transportation department, or its equivalent.

(b) A person shall not use a wireless telephone, including those with hands-free devices, while operating a bus, as defined by §55-8-101(5).

(c) A person shall not use a wireless telephone, including those with hands-free accessories, while operating a semi trailer, as defined by §55-8-101(54).

(d) No person holding a learner permit or intermediate driver's license, as defined by §55-50-311, shall use a wireless telephone, including those with hands-free accessories, while operating a motor vehicle.

(e) Subsections (a) through (d) shall not apply to emergency use of a wireless telephone, including calls to 911, a hospital, an ambulance service provider, a fire department, a law enforcement agency, or a first-aid squad.

(f) A violation of this section is a Class B misdemeanor with a maximum fine of one hundred dollars (\$100).

SECTION 8.

(a) It is an offense to drive a motor vehicle if a television receiver, a video monitor, a television or video screen, or any similar means of visually displaying a television broadcast or video signal that produces entertainment or business applications

is operating and is located in the motor vehicle at any point forward of the back of the driver's seat, or is operating and visible to the driver while driving the motor vehicle.

(b) Subsection (a) does not apply to the following equipment when installed in a motor vehicle:

(1) A vehicle information display;

(2) A global positioning display;

(3) A mapping display;

(4) A visual display used to enhance or supplement the driver's view forward, behind, or to the sides of a motor vehicle for the purpose of maneuvering the vehicle; or

(5) A television receiver, video monitor, television or video screen, or any similar means of visually displaying a television or broadcast or video signal, if that equipment has an interlock device that, when the motor vehicle is driven, disables the equipment for all uses except as a visual display as described in subsections (1)-(4).

(c) Subsection (a) does not apply to a mobile, digital terminal installed in an authorized law enforcement or emergency vehicle or to a motor vehicle providing emergency road service or roadside assistance.

(d) A violation of this section is a Class C misdemeanor.

SECTION 9. Use of fines.

(a) All proceeds from the fines imposed by sections 4 through 8 of this act shall be deposited in the state general fund and designated for:

(1) The use of the division of vocational rehabilitation to assist eligible handicapped individuals as defined in §49-11-602(3) who have been severely injured in motor vehicle accidents; and

(2) An information campaign designed to raise public awareness of the dangers of distracted driving.

SECTION 10.

(a) A violation of sections 6 through 8 of this act shall be treated as a secondary offense.

(b) Notwithstanding any provision of law to the contrary, no citation or warrant for arrest shall be issued for a violation of sections 6 through 8 of this act unless a person is stopped by a law enforcement officer for a separate violation of law and is issued a citation or warrant for arrest for the separate violation of law.

(c) A law enforcement officer who observes a person violating sections 6 through 8 of this act may issue the person a citation, but shall not arrest or take the person into custody solely for violating these sections.

SECTION 11. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 12.

(a) This act shall take effect ninety (90) days after its passage, the public welfare requiring it.

(b) For the first sixty (60) days following this act's effective date, law enforcement officers shall only issue warnings for violations of sections 6 through 8 of this act.